

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of Spectra Communications)
Group, LLC d/b/a CenturyTel's Request for)
Competitive Classification Pursuant to)
Section 392.245.5, RSMo (2005)

Case No. IO-2006-0108

Late-Filed Exhibit 17

COMES NOW the Staff of the Commission ("Staff"), and as directed by the Commission at the hearing on September 28, 2005, submits the attached Late-Filed Exhibit 17.

During the hearing in this matter, the Commission requested that its Staff provide a discussion of potential issues regarding intermodal (wireline/wireless) local number portability that could be viewed as barriers to customers obtaining local numbers in the exchanges in question. The attached Late-Filed Exhibit 17, consisting of Attachments A and B to this pleading, provides this information in response to that request.

WHEREFORE, Staff requests that the Commission accept the attached late-filed exhibit.

Respectfully submitted,

DANA K. JOYCE
General Counsel

/s/ David A. Meyer

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 30th day of September 2005.

/s/ David A. Meyer

MEMORANDUM

To: Missouri Public Service Commission Official Case File
Case No. IO-2006-0108

From: Natelle Dietrich
Telecommunications Department

Subject: Response to Commission Questions on Local Number Portability

Date: September 29, 2005

During the September 28, 2005 hearing in Case No. IO-2006-0108, Commissioners Gaw and Clayton asked about any issues with intermodal (wireline/wireless) local number portability that could be viewed as barriers to customers obtaining local numbers in the exchanges in question. This Memorandum provides information in response to that request.

Background

Section 251(b) of the Telecommunications Act (Act) requires local exchange carriers to provide local number portability (LNP), to the extent technically feasible, in accordance with requirements prescribed by the FCC. Local number portability is defined as “the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability or convenience when switching from one telecommunications carrier to another.” In 1996, the FCC released the Local Number Portability *First Report and Order*¹, noting that “section 251(b) requires local exchange carriers to provide number portability to all telecommunications carriers, and thus to Commercial Mobile Radio Service (CMRS) providers as well as wireline service providers.”² The FCC concluded that “the public interest is served by requiring the provision of number portability by CMRS providers because number portability will promote competition between providers of local telephone services and thereby promote competition between providers of interstate access services.”³

In 1997, the FCC adopted recommendations for wireline-to-wireline number portability, limiting porting, due to technical limitations, to carriers with facilities or numbering resources in the same rate center. At the same time, the FCC directed the North American Numbering Council (NANC) to develop standards and procedures to provide for wireless carrier participation in local number portability.

¹ Telephone Number Portability, CC Docket No. 95-116, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 8352 (1996).

² Id. at para. 152.

³ Id. at para. 153.

In 1998, the NANC submitted a report on the technical issues associated with wireless-to-wireline porting. The report discussed such issues as: the differences between the local service areas of wireless and wireline carriers and the differences in associating a subscriber's number to a particular rate center. Because of the differences noted in the report, the NANC indicated that if a wireless subscriber, with an NPA-NXX outside of the wireline rate center where the subscriber is located, seeks to port his or her number to a wireline carrier, that wireline carrier may not be able to receive the ported number. Additional reports were issued in subsequent years.

On January 23, 2003, and again on May 13, 2003, the Cellular Telecommunication and Internet Association (CTIA) filed petitions with the FCC seeking a declaratory ruling that wireline carriers have an obligation to port their customers' numbers to wireless carriers whose service areas overlap the wireline rate center that is associated with the number. In its petitions, CTIA claims, "some LECs have narrowly construed their LNP obligations with regard to wireless carriers, taking the position that portability is only required where the wireless carrier receiving the number already has a point of presence or numbering resources in the wireline rate center."⁴ In response to these petitions, on November 10, 2003, the FCC released its Memorandum Opinion and Order and Further Notice of Proposed Rulemaking (Opinion). In its Opinion, the FCC established deadlines by which "**LECs must port numbers to wireless carriers where the requesting wireless carrier's coverage area overlaps the geographic location of the rate center in which the customer's wireline number is provisioned, provided that the porting-in carrier maintains the number's original rate center designation following the port.**"⁵ (emphasis added) The latest of these deadlines was May 2004.

As an exception to the FCC's mandate, 47 U.S.C. §251(f)(2), allows a rural local exchange carrier with fewer than two percent of the Nation's subscriber lines installed in the aggregate nationwide to petition a state commission for a suspension or modification of the application of requirements found in Section 251(b) and (c). The FCC Opinion requires the petitioning carrier to provide substantial, credible evidence that there are special circumstances to justify the suspension and Section 251(f)(2) states:

The State commission shall grant such petition to the extent that, and for such duration as, the State commission determines that such suspension or modification –

- (A) is necessary –
 - i. to avoid a significant adverse economic impact on users of telecommunications services generally;
 - ii. to avoid imposing a requirement that is unduly economically burdensome; or
 - iii. to avoid imposing a requirement that is technically infeasible; and
- (B) is consistent with the public interest, convenience, and necessity.

⁴ CTIA Petition for Declaratory Ruling, CC Docket No. 95-116, filed Jan. 23, 2003.

⁵ *In the Matter of Telephone Number Portability*, CC Docket No. 95-116, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, November 10, 2003 at para. 22.

Spectra Communications Group, LLC d/b/a CenturyTel (Spectra) has not petitioned the Missouri Public Service Commission for such a waiver, and as such, should be in compliance with porting requirements. This is consistent with statements by Mr. Martinez during the hearing.

Potential Barriers

First, it should be noted that wireless service areas don't equate to the local calling areas of local exchange carriers. The wireless coverage area "is the area in which wireless service can be received from the wireless carrier".⁶

Local exchange carriers have defined local exchange boundaries. In some instances, a wireless carrier may interconnect directly with the local exchange area, but in other circumstances the wireless carrier may have no point of presence (or interconnection) within the ILEC boundaries. In those instances, facilities would have to be built or arrangements would have to be negotiated with third party transiting carriers to complete calls once end users port their landline number to that wireless carrier. Attachment B is representative of this arrangement.

In other words, customers could not simply say, "I want to port to Big National Wireless service". If Big National Wireless does not have a point of presence in Spectra's local exchange boundaries, Big National Wireless or Spectra may need to build additional facilities to serve that area, negotiate interconnection agreements and/or negotiate with third party transiting providers to complete calls to the ported number. While this may not be a barrier to serving an area, it could limit the customer's ability to port to only those carriers with an existing presence in an exchange or LEC local calling area.

As far as technical barriers, the FCC noted, "There is no persuasive evidence in the record indicating that there are significant technical difficulties that would prevent a wireline carrier from porting a number to a wireless carrier that does not have a point of interconnection or numbering resources in the same rate center as the ported number. Accordingly, the plain test of the Act and the Commission's rules, requiring LECs to provide number portability applies."⁷ Further, the FCC clarified that "wireline carriers may not require wireless carriers to enter into interconnection agreements as a precondition to porting between carriers."⁸

In conclusion, if a wireless carrier does not have a point of presence in the Spectra exchange or local calling area in which the customer is located there are issues that will need to be addressed before the wireline customer can port to that wireless carrier. However, there do not appear to be any regulatory barriers that would prevent a customer from porting his wireline number to a wireless carrier.

⁶ Id at para. 1.

⁷ Id at para. 23.

⁸ Id at para. 1.

ATTACHMENT B

Presentation to the Staff Subcommittee on Telecommunications

March 2004

Washington DC

“Intermodal LNP and the Challenges it Causes for Rural Telcos”

Jeffrey Smith

OPASTCO Policy Analyst

**Big National
Wireless Corp.**

Big City, Minn.

*Long-Distance
Toll Transport
Provider*

LATA Boundary

**Big National Wireless Corp.
Coverage Area Boundary**

**Big National Wireless Corp.'s
Point of Interconnection**

**IXC Point
of Presence**

*LEC Transport
Obligation*

Switch

Smallville, Minn.

**Smallville
LEC Rate Center**

**ABC Tel. Co.
Service Area Boundary**

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